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Before the
FEDERAL COMMUNICATIONS COMMISSION FEB - 1 1994
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF:

DOCKET NO. 93-75

**TRINITY BROADCASTING OF FLORIDA, INC.
and
GLENDALE BROADCASTING COMPANY**

Miami, Florida

DATE OF HEARING: January 14, 1994

VOLUME: 28

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FREE STATE REPORTING, INC.
Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

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OFFICE OF THE SECRETARY

MM DOCKET NO. 93-75

The above-entitled matter came on for hearing pursuant to notice before Judge Joseph Chachkin, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., in Courtroom No. 3, on Friday, January 14, 1994 at 9:34 a.m.

APPEARANCES:

On behalf of Trinity Broadcasting of Florida, Inc.:

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On behalf of Glendale Broadcasting Company:

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On behalf of S.A.L.A.D.:

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1 APPEARANCES (Continued):

2 On behalf of the Mass Media Bureau:

3 GARY P. SCHONMAN, Esquire
4 JAMES W. SHOOK, Esquire
5 2025 M Street, N.W.
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I N D E X

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3	<u>MR. ESPINOZA</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
4	Philip David Expinoza				
5	By Mr. Schonman		4325		
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25	Hearing Began: 9:34 a.m.		Hearing Ended: 12:23 p.m.		

P R O C E E D I N G S

1 JUDGE CHACHKIN: We're back on the record. Mr.
2 Schonman?

3 MR. SCHONMAN: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. SCHONMAN:

6 Q Pastor Espinoza, before we recessed yesterday, we
7 were talking about the various Translator TV, Inc. and NMTV
8 meetings at which Mr. Juggert was present. Do you recall
9 that, our discussion about that?

10 A Yes, sir.

11 Q And you had testified that questions were put to Mr.
12 Juggert during the course of these meetings and that Mr.
13 Juggert provided responses to those questions at these
14 meetings. Do you recall that?

15 A (Witness nods yes.)

16 Q And my question for you now, which I neglected to
17 ask you yesterday, is did you and your fellow board members at
18 TTI or NMTV, as the case may be, rely on the legal advice that
19 Mr. Juggert provided?

20 A I would say yes, Mr. Schonman.

21 Q Now, you're aware that Mr. Juggert drafted
22 Translator TV, Inc.'s bylaws, are you?

23 A I believe I was informed of that, sir, yes.

24 Q When were you informed of that?

1 A Years -- I don't know when. I know I was told that
2 he was involved in that.

3 Q And are you similarly aware that Mr. Juggert drafted
4 Translator TV, Inc.'s bylaws? I'm sorry, articles. Articles
5 of Incorporation.

6 A I was under the impression he had worked on both.
7 Yes, sir.

8 Q Would you turn to Bureau Exhibit Number 16, please?
9 And that's in Volume One. Would you turn to Page Nine,
10 please? And this is a power of attorney given to Mr. Juggert
11 by Translator TV, Inc. regarding an IRS matter and my question
12 for you is have you ever seen this document before?

13 A I believe no, sir. I believe I've not seen it.

14 Q At any time, have you been aware that Translator TV,
15 Inc. gave Mr. Juggert power of attorney regarding this
16 particular IRS matter?

17 A If I was, I really don't remember. I don't think
18 so.

19 Q Now, yesterday we were also talking about the
20 initial group of low-power applications that Translator TV,
21 Inc. filed with the Federal Communications Commission and if
22 you'd like to refer to the list, that list can be found at
23 Page 25 of Trinity Exhibit 101.

24 JUDGE CHACHKIN: Is this low-power or Translator
25 applications?

1 MR. SCHONMAN: Translator applications.

2 MR. TOPEL: Does the witness have that? Maybe you
3 can help him, Chris. I don't know that he has it.

4 JUDGE CHACHKIN: Here. I'll give the witness a list
5 of what --

6 MR. ESPINOZA: Thank you, sir.

7 BY MR. SCHONMAN:

8 Q Pastor Espinoza, it was your understanding, wasn't
9 it, that these stations would carry TBN programming. Is that
10 correct?

11 A Yes, sir.

12 Q What was your understanding as to how the TBN
13 programming would be fed to these stations and then
14 rebroadcast to the public?

15 A At the beginning, I don't -- I don't think I really
16 knew how it would be done. Now, of course, I'm aware of how
17 it shot up to the satellite, so on and so forth, but I don't
18 think I really had an understanding of it.

19 Q At any time during the period that you were a
20 director, did you have an understanding that satellites would
21 be used to feed the programming to these stations?

22 A In hearing the different conversations, that became
23 my understanding.

24 Q Given that understanding, that satellites would be
25 used to deliver TBN programming to these stations, it was

1 reasonable, wasn't it, for TBN to refer to Translator TV, Inc.
2 as its satellite division in the Praise the Lord newsletters,
3 wasn't it?

4 A I hadn't thought of it that way, but it's
5 reasonable.

6 Q Was there ever a time during the ten-year period
7 that you were a director that you saw any bills submitted for
8 legal services performed by Colby May's office?

9 A I believe not, sir.

10 Q Pastor Espinoza, would you turn to Bureau Exhibit
11 Number 239 and --

12 MR. TOPEL: That's in Volume Four, Pastor.

13 BY MR. SCHONMAN:

14 Q That's in Volume Four. I did say Exhibit 239?

15 A Yes.

16 Q Now, Pastor Espinoza, this is a letter from Colby
17 May to Dr. Crouch regarding a retainer for TBN as well as NMTV
18 and Community Educational Television. Have you ever seen this
19 letter before?

20 A I believe not, sir.

21 JUDGE CHACHKIN: I assume when you say you believe
22 not, that you have not seen it.

23 MR. ESPINOZA: No, sir. I have not.

24 JUDGE CHACHKIN: Thank you.

25 BY MR. SCHONMAN:

1 Q Were you ever made aware of the contents of this
2 letter during any time that you were a director at NMTV?

3 A No, sir.

4 Q Were you aware that Colby May's office had a
5 retainer agreement of any nature with NMTV?

6 A Yes. I believe that later on in conversations with
7 Mrs. Duff, the name of Mr. Colby would come up. So this is
8 something that, again, I assumed that he was some kind of an
9 attorney for NMTV, also.

10 Q Was it your belief that Colby May was Translator TV,
11 Inc.'s and NMTV's communications counsel?

12 A Since on some occasions I saw him at the combined
13 board meetings -- again, I think this was an assumption on my
14 part, sir. But I would see him -- I think I'd read it a
15 couple of times, so I felt there was some kind of a
16 relationship.

17 Q And that relationship, to the best of your belief,
18 was that Colby May and his law firm represented NMTV?

19 A I think it was more of an understanding, not a
20 certainty.

21 Q Pastor Espinoza, were you aware that TBN was
22 soliciting money for Translator TV, Inc. at any time?

23 A I'm not sure.

24 Q You are aware that TBN conducted praise-a-thons from
25 time to time. Is that correct?

1 A Yes.

2 Q Do you have any knowledge as to whether TBN
3 solicited money for Translator TV, Inc. during any of those
4 praise-a-thons?

5 A Mr. Schonman, I'd really be guessing. I really
6 don't remember. If memory serves me right, the telethons
7 would be held during the month of November. For many years, I
8 would take an annual trip to the land of Israel during the
9 month of November, so sometimes I would attend the telethons,
10 other times I'd watch it. But many times, I was in Israel
11 during the time of the telethons.

12 Q I take it from your answer then that you did not
13 participate in soliciting money for Translator TV, Inc. during
14 any of the TBN telethons?

15 A No, sir.

16 Q Do you have any knowledge as to where the money came
17 from to prepare the initial group of Translator applications
18 that you were shown earlier?

19 A It was my understanding that it was from Trinity
20 Broadcasting.

21 JUDGE CHACHKIN: Do you recall any meeting of the
22 board where a discussion was held and a resolution was taken
23 that the -- that Translator TV should use money from TBN for
24 this purpose?

25 MR. ESPINOZA: Your Honor, I remember a number of

1 meetings where it was discussed. But specifically for TTI, at
2 this point, I really don't remember, sir.

3 BY MR. SCHONMAN:

4 Q Pastor Espinoza, you are aware, aren't you, that
5 Translator TV, Inc.'s financial statements were included in a
6 combined financial statement with TBN?

7 A Yes, sir.

8 Q Now, you testified yesterday that you reviewed the
9 combined financial statements during the annual meetings that
10 you attended.

11 A Yes, sir.

12 Q Are you aware that there appeared in these financial
13 statements an ever-increasing deficit for Translator TV, Inc.
14 as the years progressed?

15 A Mr. Schonman, I could not answer honestly because at
16 this point, I remember looking at the reports, but right now,
17 these are just figures and I couldn't give you an honest
18 answer.

19 Q Well, let's look at one particular financial
20 statement and perhaps that will reflect -- refresh your
21 recollection. If we can turn to Bureau Exhibit Number 86.
22 That would be representative of a financial statement that you
23 might have reviewed.

24 MR. TOPEL: Volume Two.

25 BY MR. SCHONMAN:

1 Q Pastor Espinoza, do you have Bureau Exhibit Number
2 86 before you?

3 A Yes, sir.

4 Q As you leaf through that, do you recall having ever
5 seen this document before?

6 A Mr. Schonman, I remember seeing documents similar to
7 this, but if I specifically saw this one, I couldn't tell you
8 for sure.

9 Q Do you happen to know why Translator TV, Inc. was
10 included in this combined financial statement with TBN?

11 A It's my understanding that TTI was considered an
12 affiliate of TBN.

13 Q And what was your understanding as to what the word
14 affiliate meant?

15 A That there was a relationship.

16 Q Did you have any understanding as to the nature of
17 that relationship?

18 A The carrying out of the purpose, the vision.

19 Q Would you turn to Page 29 of this financial
20 statement? Now, you'll notice that there's a column for
21 Translator TV, Inc. just about in the middle of the page.

22 A Yes, sir.

23 Q And if you look down the column, there is a negative
24 fund balance in excess of \$206,000. Do you see that?

25 A Yes, sir.

1 Q And if you turn back to Page 28, you'll see the
2 reference to fund balance, that that line where the \$206,000
3 figure appears reflects the company's fund balance.

4 A Yes, sir.

5 Q Now, in your direct testimony, you state that the
6 company was relatively inactive for a number of years after
7 the Commission imposed a freeze. At the time that you read
8 this financial statement, did you notice that there was a
9 negative fund balance in excess of \$206,000?

10 MR. TOPEL: I'm just -- I'm going to object and ask
11 the question be rephrased because I think it could be
12 addressed. But I think the witness testified he didn't recall
13 reading specifically this document.

14 JUDGE CHACHKIN: You'll have to show it to the
15 witness and ask him if he's read it as a foundation. I don't
16 know if a foundation's been laid.

17 MR. SCHONMAN: I think the witness has testified
18 that he can't recall seeing this specific document.

19 JUDGE CHACHKIN: Well, you can ask him the question
20 then, if he was aware of that fact.

21 BY MR. SCHONMAN:

22 Q Were you aware that the company's fund balance was
23 in excess of \$206,000 at this period of time reflected in this
24 financial statement?

25 A Mr. Schonman, if I was, at this point, I don't

1 remember. I really don't.

2 Q As a general matter, when you say that you reviewed
3 the financial statements that were distributed at the annual
4 meetings, what was it that you looked at when you say that you
5 reviewed them?

6 A Documents similar to this and a time was allotted
7 for each person to go through them.

8 Q Pastor Espinoza, keeping this document open, would
9 you turn to Bureau Exhibit Number 91 which is in Volume Two,
10 the same volume?

11 A I'm sorry. Did you say 91 or 92?

12 Q 91. Bureau Exhibit Number 91 are the minutes of the
13 1985 annual meeting of the combined boards and if you turn to
14 Page Three -- I'm sorry. You were present at that meeting
15 according to the minutes, Paragraph Two.

16 A Yes, sir.

17 Q Now, if you turn to Page Three, just about in the
18 middle of that page, there's the paragraph that begins, "The
19 Board then considered the audited financial statement." And
20 the audited financial statement that's referred to in this
21 paragraph is the audited financial statement that appears at
22 Bureau Exhibit Number 86, the one we were just looking at. My
23 question for you is when the minutes say that the board then
24 considered the audited financial statement, what does that
25 mean, if you know?

1 A Well, to me it meant that they were given out and
2 each person was given time to review them and if any questions
3 -- if there were any questions, questions could be made.
4 That's my recollection.

5 Q And you reviewed the financial statements at each
6 meeting that you attended.

7 A Yes, sir.

8 Q And it's your testimony that you do not recall
9 noting that the financial statement reflected an ever-
10 increasing negative fund balance for Translator TV, Inc.?

11 A At this point, no, sir. I really don't.

12 Q Did you ever question anyone about any of the
13 statistics or figures contained in any of the financial
14 statements that you reviewed?

15 A Back then, it's very possible that I did. But
16 today, I would not remember if I did or what I would've asked,
17 no.

18 Q And no one raised the question as to how the company
19 could have an ever-increasing negative fund balance during a
20 period of time when the company was relatively inactive?

21 A Mr. Schonman, if it was raised, I honestly do not
22 remember today, sir.

23 JUDGE CHACHKIN: Are you aware, sir, of all the years
24 that you were a director of any budget ever been prepared for
25 Translator TV or NMTV?

1 MR. ESPINOZA: I'm sure it was, Your Honor.

2 JUDGE CHACHKIN: But did you ever see a budget which
3 set forth the -- an annual budget that sets forth the
4 projected costs and expenses, particularly with the TV
5 stations that you owned? Did you ever see such a budget?

6 MR. ESPINOZA: Your Honor, I believe that it was
7 prepared, but if they're asking me if I remember it right now,
8 no, I do not, sir.

9 JUDGE CHACHKIN: Are there any budgets for
10 Translator TV or NMTV which have been turned over, annual
11 budgets?

12 MR. COHEN: There is a document in evidence which is
13 the projection beginning around 1981. It was prepared by -- I
14 think by Bill Phipps. There was a couple of documents at the
15 very outset of the advent of Translator Television, Inc., Your
16 Honor, which are in evidence as Bureau exhibits and Glendale
17 exhibits and I can direct you to them if you wish.

18 JUDGE CHACHKIN: But there's no budgets for later
19 years?

20 MR. COHEN: No. The only document --

21 JUDGE CHACHKIN: I mean, after they acquired the
22 television stations?

23 MR. COHEN: If I'm in error, Mr. Topel, I hope you
24 correct me. But my understanding is the only documents that
25 are in evidence relate to 1981 and 1982 and nothing subsequent

1 to that. I mean, if I'm in error, please correct me.

2 JUDGE CHACHKIN: Are you aware of any budgets being
3 prepared for these --

4 MR. TOPEL: I'm just not sure. I can't say yes. I
5 mean, I can't -- I cannot specifically --

6 BY JUDGE CHACHKIN:

7 Q I mean, they did have a business going on when they
8 had the television stations. In connection with your church,
9 do you prepare annual budgets?

10 A They are prepared for me, sir. I do not do that.

11 Q But it is prepared for you, an annual budget.

12 A Yes.

13 Q Well, what's included in the annual budget?

14 A What comes in per month, the expenses. But see,
15 sir, this is my daily activity.

16 Q I understand it, but you're a religious corporation
17 and you have an annual budget prepared --

18 A That's correct, sir.

19 Q -- as to what your costs are, what your expenses
20 are, what your income is.

21 A That's right, sir.

22 Q Now, I don't find any budgets prepared for
23 Translator TV or NMTV.

24 A Your Honor?

25 Q Yes?

1 A They're asking me if I remember those for TTI.

2 Q Yes.

3 A I don't remember because --

4 Q What about National Minority?

5 A I don't remember, sir. I know about the ones for my
6 church because this is what I deal with on a daily basis or --
7 but this is something that to me happened years ago.

8 Q Were you -- do you ever -- recall ever receiving a
9 document, a budget for any of the years that you were director
10 for either Translator TV or later on for National Minority?

11 A Your Honor, I remember seeing financial documents.

12 Q I'm not talking about financial documents. I'm
13 talking about a budget setting forth the costs, expenses,
14 income, breaking it down, particularly when the television
15 station expenses presumably were expenses for running the
16 stations, and if there are such budgets, does TBN prepare the
17 budgets for NMTV or no budgets were ever prepared? I mean, it
18 just occurred to me that I don't recall seeing any budgets.

19 MR. COHEN: Your Honor, could I ask -- make a
20 suggestion?

21 JUDGE CHACHKIN: If there are any such budgets, I
22 think they should be in the record.

23 MR. COHEN: That's what I -- respectfully, that's
24 what -- I was going to suggest that we could have a
25 stipulation and I would rely on Mr. Topel here as to whether

1 such budgets were prepared and/or whether they were produced
2 and I won't second-guess them. If he says -- whatever he
3 tells you his search finds, I'll accept.

4 JUDGE CHACHKIN: Well, it's hard to believe that a
5 business would not have a budget prepared, setting forth what
6 their costs and their income is and expenses.

7 MR. TOPEL: I'm sure there are those financial
8 statements. I recall --

9 JUDGE CHACHKIN: Well, the financial statements
10 don't --

11 MR. TOPEL: I recall seeing those. Your Honor,
12 we'll check. My recollection just isn't clear. I'm not sure
13 if the term budget was used in the document requests that were
14 made. Nonetheless, we, I think, essentially produced -- well,
15 we produced a great deal of financial information, and I just
16 don't want to represent to you today what was in there and
17 what wasn't. But I will -- we'll check.

18 JUDGE CHACHKIN: I notice also that these financial
19 statements indicate that equipment was depreciated in this
20 combined financial statement and the question is was TBN
21 depreciating equipment which was used by NMTV and Translator
22 TV?

23 MR. TOPEL: I think that's the subject of the joint
24 exhibit.

25 MR. SHOOK: Part of that is covered in the

1 stipulation.

2 JUDGE CHACHKIN: There is a stipulation?

3 MR. SHOOK: The joint exhibit that Mr. Topel
4 referred to.

5 JUDGE CHACHKIN: Oh, that's included in there?

6 MR. SHOOK: Well, it talked about an accounting
7 error that arose because there was equipment that Translator
8 TV, Inc. did not possess, but other entities within the
9 Trinity Broadcasting Network group utilized and it was that
10 equipment that was actually brought and depreciated over the
11 years.

12 But for reasons of the error, as explained in the
13 joint exhibit, the equipment and the depreciation was noted
14 for Translator TV, Inc. rather than either Trinity
15 Broadcasting Network or Trinity Broadcasting of Arizona or
16 whichever of the entities actually held that equipment.

17 JUDGE CHACHKIN: What about equipment used by
18 Translator TV in connection with their translators and low-
19 power and broadcast stations? Who's taking depreciation on
20 it?

21 MR. SHOOK: Well, later on, once there were actually
22 operating stations for National Minority TV, it was reflected
23 in the financial statements that National Minority TV had
24 certain equipment and that that equipment was being
25 depreciated.

1 JUDGE CHACHKIN: By National Minority?

2 MR. SHOOK: Yes, sir. But that didn't -- that
3 didn't come into play until the late 1980's.

4 JUDGE CHACHKIN: All right. Let's continue. Go
5 ahead, Mr. Schonman.

6 BY MR. SCHONMAN:

7 Q Pastor, can you turn to Paragraph Ten of your direct
8 testimony, please? Let me know when you've had an opportunity
9 to read that, please.

10 A Okay.

11 Q Pastor, the last sentence states, "Mrs. Duff finally
12 agreed that Translator TV, Inc. was entitled to and should
13 claim a minority preference for its low-power stations." In
14 reaching that agreement with Mrs. Duff, did you consult any
15 attorneys as to the propriety of claiming a preference?

16 A I did not, sir. No.

17 Q Do you know if Mrs. Duff did?

18 A No, I do not know.

19 Q Did you have any discussions with Dr. Crouch about
20 the propriety of claiming a minority preference?

21 A No, sir.

22 Q Do you know if Mrs. Duff had any conversations with
23 Dr. Crouch about the propriety of claiming a minority
24 preference?

25 A That I would not know, sir.

1 Q And do you know if Dr. Crouch consulted with any
2 attorney about the propriety of claiming a minority
3 preference?

4 A I wouldn't know, sir.

5 Q What was your basis for agreeing with Mrs. Duff that
6 Translator TV, Inc. was entitled to claim a minority
7 preference?

8 A It was something that she said could be done and
9 again, I had to rely on her judgement. This was something
10 that I was not aware of. These were all new things to me, so
11 I really relied on her judgement for this.

12 Q She merely told you that it was something that
13 Translator TV, Inc. was entitled to do?

14 A I believe so, sir.

15 Q Did she tell you that Translator TV, Inc. had
16 already filed preferences with the Commission or was going to
17 file preferences with the Commission?

18 A No. I believe that it was a matter of -- it was
19 something that was being considered.

20 Q During your discussion with Mrs. Duff, was there any
21 discussion about Mrs. Duff's status as an employee of TBN?

22 A Did I ever discuss it with her, what her --

23 Q In connection with your discussion about claiming a
24 preference, did the matter of Mrs. Duff's employment with TBN
25 come up at all?

1 A I believe not. I don't think so.

2 Q And what was your understanding at this time as to
3 what was required in order to claim a minority preference?

4 A That there be the ability for minorities to control
5 or that there be more minorities in the corporation. That was
6 my understanding.

7 Q And that understanding was based on what Mrs. Duff
8 told you?

9 A That is correct, sir.

10 Q And I'm correct that from your testimony yesterday,
11 you had no understanding as to what was required in order to
12 claim a diversification preference. Is that correct?

13 A Yes, sir.

14 Q Was that the subject -- that is a diversification
15 preference, was that the subject of any discussion you had
16 with Mrs. Duff?

17 A Mr. Schonman, I believe that she talked about it.
18 But at this point, I honestly couldn't tell you that I
19 remember. More than likely, at that time, I understood it,
20 but today, I do not, sir.

21 Q Do you recall her telling you that Translator TV,
22 Inc. was entitled to claim a diversification preference?

23 A It's my understanding that she did.

24 Q And your agreement with her that Translator TV, Inc.
25 was entitled to claim a diversification preference was based

1 solely on what she told you?

2 A That is correct, sir.

3 Q Please turn to Paragraph 12 of your direct
4 testimony. You've read Paragraph 12?

5 A Yes, sir.

6 Q Now, I understand that Mrs. Duff telephoned you and
7 informed you about an opportunity to acquire an unbilled
8 station in Odessa. Is that correct?

9 A That's my recollection, sir.

10 Q Can you elaborate on the substance of that
11 conversation with Mrs. Duff?

12 A Only that she called and again, I couldn't tell you
13 if it was at my home or at my office, and she talked about the
14 possibilities of being able to obtain the Odessa station.
15 Today I can't give you very much more about the substance of
16 that conversation.

17 Q She told you, didn't she, that the Odessa permit was
18 for a full-power television station, didn't she?

19 A That was my understanding, sir.

20 Q Now, up to this time, Translator TV, Inc. was in the
21 translator or low-power business, wasn't it?

22 A That's my understanding, sir.

23 Q Did this represent a change for the company?

24 A I believe so.

25 Q Why was Translator TV, Inc. considering acquiring

1 the Odessa station and not TBN?

2 A That I couldn't tell you, sir. I don't know.

3 Q TBN was in the business of acquiring full-power TV
4 stations, wasn't it?

5 A Yes, it was.

6 Q Did you question Mrs. Duff as to why TBN was not
7 interested in acquiring the Odessa permit?

8 A Mr. Schonman, if memory serves me right, I don't
9 know if TBN could purchase it because Mr. Crouch was under the
10 minority preference rule, I believe, that NMTV could purchase
11 it even with Mr. Crouch being on the board of directors
12 because we would -- there was an allowance for our corporation
13 to own that one, even with Mr. Crouch on the corporation. I
14 believe that was part of the discussion.

15 Q Does the term multiple-ownership rules mean anything
16 to you?

17 A I believe -- I'm trying to remember as well as I
18 can, sir. I believe that may have come up, the idea of one
19 person being on a corporation and being limited to the number
20 of stations that a person could be involved with.

21 Q During this conversation, did Mrs. Duff tell you
22 that Translator TV, Inc. could acquire this Odessa permit?

23 A I don't know if she -- if she used the term that it
24 could or that it would, but it was more of the possibility or
25 consideration.